

**STATE OF SOUTH CAROLINA  
BEFORE THE PUBLIC SERVICE COMMISSION  
DOCKET NO. 2017-305-E**

In the Matter of: Request of the Office of  
Regulatory Staff for Rate Relief to South  
Carolina Electric & Gas Company's Rates  
Pursuant to S.C. Code Ann. § 58-27-920

**REPLY OF AARP IN OPPOSITION TO  
SCE&G'S MOTION FOR SUMMARY  
JUDGMENT AND IN THE  
ALTERNATIVE MOTION TO STRIKE**

**INTRODUCTION**

Intervenor AARP submits the following memorandum in opposition to SCE&G's Motion for Summary Judgment and in the Alternative Motion to Strike filed on September 19, 2018. Because discovery and the pre-filing of testimony in the consolidated dockets 2017-207-E, 2017-305-E, and 2017-370-E is incomplete, summary judgment is premature and should be denied.

**ARGUMENT**

Summary judgment is proper only where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Englert, Inc. v. LeafGuard USA, Inc., 377 S.C. 129 (S.C., 2008); Rule 56(c), SCRPC. Under the summary judgment standard, every benefit of the doubt is given to the party opposing summary judgment. Watters v. Terminix Service, Inc., 376 S.C. 632 (S.C. App., 2008). "At the summary judgment stage of the proceedings, it is only necessary for the nonmoving party to submit a scintilla of evidence warranting determination by a [factfinder] for summary judgment to be denied. Hill v. York County Sheriff's Dept., 313 S.C. 303, 308 (S.C. App., 1993).

Further, "[s]ummary judgment is a drastic remedy and must not be granted until the opposing party has had a full and fair opportunity to complete discovery." Dawkins v. Fields, 354 S.C. 58, 69 (S.C., 2003). Summary judgment is not appropriate where further inquiry into the facts is desirable to clarify application of the law. Evening Post Publ'g Co. v. Berkeley County Sch. Dist., 392 S.C. 76, 82 (S.C., 2011).

In seeking summary judgment, SCE&G relies solely upon testimony pre-filed by ORS on August 14, 2018 in Docket No. 2017-305-E. As the Commission is aware, Dockets 2017-305-E, 2017-207-E, and 2017-370-E share a “general commonality of issues” and have been consolidated through joinder of all parties and proceedings on the merits. Order No. 2018-82-H. ORS and intervenors, including AARP, have timely filed voluminous testimony in these consolidated dockets which SCE&G fails to address in its Motion. In addition, discovery is incomplete in these consolidated dockets with depositions of key witnesses yet to be taken. As a result, summary judgment is improper.

### **CONCLUSION**

Therefore, because SCE&G has failed to establish the absence of genuine issues of material fact and because further inquiry into the facts is desirable, and ongoing, SCE&G’s Motion for Summary Judgment and in the Alternative Motion to Strike filed on September 19, 2018 should be denied.

Respectfully Submitted,

SOUTH CAROLINA APPLESEED LEGAL JUSTICE CENTER

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s/ Adam Protheroe  
 By: Adam Protheroe  
 S.C. Bar No. 78442  
 P.O. Box 7187  
 Columbia, SC 29202  
 Office – (803) 779-1113 ext. 106  
 Fax – (803) 779-5951  
[adam@scjustice.org](mailto:adam@scjustice.org)

John B. Coffman  
 MoBar# 36591 (Admitted Pro Hac Vice)  
 John B. Coffman, LLC  
 871 Tuxedo Blvd.  
 St. Louis, MO 63119-2044  
 Ph: (573) 424-6779  
 E-mail: [john@johncoffman.net](mailto:john@johncoffman.net)

Attorneys for AARP